

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)
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)
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 v.)
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)
 PEDRO ANTHONY ROMERO CRUZ,) Case Nos. 1:14-cr-00306-GBL-1
 JOSE LOPEZ TORRES,) 1:14-cr-00306-GBL-2
 ALVIN GAITAN BENITEZ,) 1:14-cr-00306-GBL-4
 CHRISTIAN LEMUS CERNA,) 1:14-cr-00306-GBL-5
 OMAR DEJESUS CASTILLO,) 1:14-cr-00306-GBL-6
 DOUGLAS DURAN CERRITOS,) 1:14-cr-00306-GBL-7
 MANUEL ERNESTO PAIZ GUEVARA,) 1:14-cr-00306-GBL-8
 JESUS ALEJANDRO CHAVEZ,) 1:14-cr-00306-GBL-10
)
)
 Defendants.)

ORDER

This matter is before the Court on various pretrial motions pending before the Court.

Having reviewed the pleadings,

IT IS HEREBY ORDERED that Defendant Pedro Anthony Romero Cruz's Motion to Exclude Audio Evidence (Doc. 579) and Defendants Alvin Gaitan Benitez, Christian Lemus Cerna, and Douglas Duran Cerritos's Motion for Immediate Disclosure of Recorded Calls and Corresponding Transcripts the Government Intends to Use at Trial (Doc. 628) are **DENIED**. Defendant Romero Cruz seeks to exclude various recordings because the audio recordings are of poor sound quality, and defense counsel is unable to identify if he is implicated in the conversations (Doc. 579). Defendant has made this argument before, and the Court ruled that "the validity of the audio recordings, their transcription and translation, and the identities of the speakers on those recordings are factual issues reserved for trial." See September 18, 2015 Order at Doc. 489. Defendants Alvin Gaitan Benitez, Christian Lemus Cerna, and Douglas Duran

Cerritos request that the Government immediately disclose: (1) the time and date of each call; (2) the parties to each call; (3) the English transcription of the call the Government intends to use at trial; and (4) a Spanish transcript of each call (Doc 628). The Court has already denied Defendants' requests for an index of the calls it intends on using at trial. *See* September 18, 2015 Order at Doc. 489. The Court also ruled that it would not require the Government to provide a list of calls, transcripts or its beliefs of who is speaking on the calls. Furthermore, the Government has represented that it will provide defense counsel a list of recordings it intends to use at trial, along with court-certified transcripts of those recordings, when the parties exchange exhibit lists;

IT IS FURTHER ORDERED that Defendant Jesus Alejandro Chavez and Douglas Duran Cerritos's Motion for Early Disclosure of Government's Exhibits (Doc. 633) is **DENIED**. The parties shall exchange exhibit lists one week prior to trial, on **March 14, 2016**;

IT IS FURTHER ORDERED that Defendants Alvin Gaitan Benitez, Christian Lemus Cerna, and Douglas Duran Cerritos's Motion to Exclude Expert Testimony (Doc. 629) is **DENIED**. The Court's Order dated February 26, 2016 mandates that the parties notify each other of any anticipated expert testimony ten business days prior to trial, on February 29, 2016. *See* Doc. 685;

IT IS FURTHER ORDERED that Defendants Jesus Alejandro Chavez and Douglas Duran Cerritos's Motion to Disclose Rule 404(b) evidence (Doc. 630) is **DENIED**. This Court previously issued an Order directing the Government to provide notice to Defendants of any evidence of other crimes, wrongs, or acts of Defendants that it intends to introduce at trial pursuant to Federal Rule of Evidence 404(b), no later than ten business days before trial. *See* Order dated September 11, 2015 (Doc. 482);

IT IS FURTHER ORDERED that Defendants Alvin Gaitan Benitez, Christian Lemus Cerna, and Douglas Duran Cerritos' motions in limine to exclude Rule 404(b) evidence (Docs. 626, 634) are **DENIED without prejudice**. As stated above, this Court previously issued an Order directing the Government to give Defendants notice, at least ten days before trial, of any evidence of Defendants' other crimes, wrongs, or acts it intends to introduce at trial in accordance with Federal Rule of Evidence 404(b) (Doc. 482). Once the Government files its notices of intent, Defendants may make specific objections;

IT IS FURTHER ORDERED that Government's Motion in Limine to Preclude Defense from Offering Evidence of Non-Party Invocation of his Fifth Amendment Rights (Doc. 635) is **GRANTED**.

IT IS SO ORDERED.

ENTERED this 3rd day of March, 2016.

Alexandria, Virginia
3/ 3 / 2016

/s/
Gerald Bruce Lee
United States District Judge